

penalty of perjury under United States law.

(2) If more than one individual or entity is the child's legal custodian, the consent of each legal custodian may be recorded in one document, or in an additional document, but all documents, taken together, must show that each legal custodian has given the necessary irrevocable consent.

*Legal custodian* means the individual who, or entity that, has legal custody of a child, as defined in 22 CFR 96.2.

*Officer* means a USCIS officer with jurisdiction to adjudicate Form I-800A or Form I-800 or a Department of State officer with jurisdiction, by delegation from USCIS, to grant either provisional or final approval of a Form I-800.

*Parent* means any person who is related to a child as described in section 101(b)(1)(A), (B), (C), (D), (E), (F), or (G) and section 101(b)(2) of the Act, except that a stepparent described in section 101(b)(1)(B) of the Act is not considered a child's parent, solely for purposes of classification of the child as a Convention adoptee, if the petitioner establishes that, under the law of the Convention country, there is no legal parent-child relationship between a stepparent and stepchild. This definition includes a stepparent if the stepparent adopted the child, or if the stepparent, under the law of the Convention country, became the child's legal parent by marrying the other legal parent. A stepparent who is a legal parent may consent to the child's adoption, or may be found to have abandoned or deserted the child, or to have disappeared from the child's life, in the same manner as would apply to any other legal parent.

*Petitioner* means the U.S. citizen (and his or her spouse, if any) who has filed a Form I-800 under this subpart C. The petitioner may be an unmarried U.S. citizen who is at least 25 years old when the Form I-800 is filed, or a married U.S. citizen of any age and his or her spouse of any age. Although the singular term "petitioner" is used in this subpart, the term includes both a married U.S. citizen and his or her spouse.

*Sole parent* means:

(1) The child's mother, when the competent authority has determined that the child's father has abandoned or de-

serted the child, or has disappeared from the child's life; or

(2) The child's father, when the competent authority has determined that the child's mother has abandoned or deserted the child, or has disappeared from the child's life; except that

(3) A child's parent is not a sole parent if the child has acquired another parent within the meaning of section 101(b)(2) of the Act and this section.

*Suitability as adoptive parent(s)* means that USCIS is satisfied, based on the evidence of record, that it is reasonable to conclude that the applicant is capable of providing, and will provide, proper parental care to an adopted child.

*Surviving parent* means the child's living parent when the child's other parent is dead, and the child has not acquired another parent within the meaning of section 101(b)(2) of the Act and this section.

#### § 204.302 Role of service providers.

(a) *Who may provide services in Convention adoption cases.* Subject to the limitations in paragraph (b) or (c) of this section, a U.S. citizen seeking to file a Form I-800A or I-800 may use the services of any individual or entity authorized to provide services in connection with adoption, except that the U.S. citizen must use the services of an accredited agency, temporarily accredited agency, approved person, supervised provider public domestic authority or exempted provider when required to do so under 22 CFR part 96.

(b) *Unauthorized practice of law prohibited.* An adoption agency or facilitator, including an individual or entity authorized under 22 CFR part 96 to provide the six specific adoption services identified in 22 CFR 96.2, may not engage in any act that constitutes the legal representation, as defined in 8 CFR 1.1(i), (j) and (m), of the applicant (for a Form I-800A case) or petitioner (for a Form I-800 case) unless authorized to do so as provided in 8 CFR part 292. An individual authorized under 8 CFR part 292 to practice before USCIS may provide legal services in connection with a Form I-800A or I-800 case, but may not provide any of the six specific adoption services identified in 22 CFR 96.2, unless the individual is authorized to do so under 22 CFR part 96

(for services provided in the United States) or under the laws of the country of the child's habitual residence (for services performed outside the United States). The provisions of 8 CFR 292.5 concerning sending notices about a case do not apply to an adoption agency or facilitator that is not authorized under 8 CFR part 292 to engage in representation before USCIS.

(c) *Application of the Privacy Act.* Except as permitted by the Privacy Act, 5 U.S.C. 552a and the relevant Privacy Act notice concerning the routine use of information, USCIS may not disclose or give access to any information or record relating to any applicant or petitioner who has filed a Form I-800A or Form I-800 to any individual or entity other than that person, including but not limited to an accredited agency, temporarily accredited agency, approved person, public domestic authority, exempted provider, or supervised provider, unless the applicant who filed the Form I-800A or the petitioner who filed Form I-800 has filed a written consent to disclosure, as provided by the Privacy Act, 5 U.S.C. 552a.

**§ 204.303 Determination of habitual residence.**

(a) *U.S. Citizens.* For purposes of this subpart, a U.S. citizen who is seeking to have an alien classified as the U.S. citizen's child under section 101(b)(1)(G) of the Act is deemed to be habitually resident in the United States if the individual:

(1) Has his or her domicile in the United States, even if he or she is living temporarily abroad; or

(2) Is not domiciled in the United States but establishes by a preponderance of the evidence that:

(i) The citizen will have established a domicile in the United States on or before the date of the child's admission to the United States for permanent residence as a Convention adoptee; or

(ii) The citizen indicates on the Form I-800 that the citizen intends to bring the child to the United States after adopting the child abroad, and before the child's 18th birthday, at which time the child will be eligible for, and will apply for, naturalization under section 322 of the Act and 8 CFR part 322. This

option is not available if the child will be adopted in the United States.

(b) *Convention adoptees.* A child whose classification is sought as a Convention adoptee is, generally, deemed for purposes of this subpart C to be habitually resident in the country of the child's citizenship. If the child's actual residence is outside the country of the child's citizenship, the child will be deemed habitually resident in that other country, rather than in the country of citizenship, if the Central Authority (or another competent authority of the country in which the child has his or her actual residence) has determined that the child's status in that country is sufficiently stable for that country properly to exercise jurisdiction over the child's adoption or custody. This determination must be made by the Central Authority itself, or by another competent authority of the country of the child's habitual residence, but may not be made by a non-governmental individual or entity authorized by delegation to perform Central Authority functions. The child will not be considered to be habitually resident in any country to which the child travels temporarily, or to which he or she travels either as a prelude to, or in conjunction with, his or her adoption and/or immigration to the United States.

**§ 204.304 Improper inducement prohibited.**

(a) *Prohibited payments.* Neither the applicant/petitioner, nor any individual or entity acting on behalf of the applicant/petitioner may, directly or indirectly, pay, give, offer to pay, or offer to give to any individual or entity or request, receive, or accept from any individual or entity, any money (in any amount) or anything of value (whether the value is great or small), directly or indirectly, to induce or influence any decision concerning:

(1) The placement of a child for adoption;

(2) The consent of a parent, a legal custodian, individual, or agency to the adoption of a child;

(3) The relinquishment of a child to a competent authority, or to an agency or person as defined in 22 CFR 96.2, for the purpose of adoption; or